IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

S.B.CRIMINAL MISC. PETITION NO. 614/2005
(Smt. Shanti Devi Vs. State of Rajasthan)

Date of Order : 26/07/2006

PRESENT

HON'BLE MR. JUSTICE H.R.PANWAR

Mr. P.N.Mohanani for the petitioner.
Mr. Ashok Upadhyay, public prosecutor.

BY THE COURT:-

By the instant criminal misc. petition under Section 482 Cr.P.C., the petitioner has challenged the order dated 25.5.2005 passed by Additional Sessions Judge, (Fast Track) No.1, Bhilwara (for short 'the revisional court' hereinafter) in Criminal Revision No.42/05, whereby the revision petition filed by the petitioner against the order dated 04.4.2005 passed by Additional Chief Judicial Magistrate, Bhilwara (for short 'the trial court' hereinafter), accepting the final report No.254/2004 arising out of Crime Report No. 646/2004, was dismissed. Aggrieved by the orders impugned, the petitioner has filed the instant criminal misc. petition.

I have heard learned counsel for the petitioner and the public prosecutor for the State.

It is contended by the counsel for the petitioner that the trial court as well as the revisional court fell in error in not directing further investigation as envisaged under Sub-Section (8) of Section 179 Cr.P.C. after filing the negative final report and in accepting the same. Learned counsel has relied on a decision of Allahabad High Court in Narendra Kumar Agarwal Vs. State of U.P. 2003 Cri.L.J., 1092.

I have carefully gone through the orders of the trial court and the revisional court as also record of the courts below.

On 25.10.2004, a complainant was filed by the complainant before the trial court which was sent for investigation to the police under Section 156 (3) Cr.P.C. After thorough investigation, police filed a negative final report.

The allegation of the petitioner complainant is that the accused made in the FIR namely Amit Derashri was admitted to the hospital at 12.00 Noon but the record of the hospital was forged and fabricated by one Om Prakash Compounder showing his admission at 11.30 A.M. on 15.7.2004 and on the basis of

forged documents and plea of alibi, in a case instituted by the complainant, accused Amit Derashri was granted anticipatory bail under Section 438 Cr.P.C.

The police investigated the matter, recorded the statements of witnesses, seized the record of the hospital, verified the same, and on investigation came to the conclusion that Amit Derashri, according to record of the hospital and the statements of doctors recorded during investigation as also the statement of compounder and other hospital staff, was admitted at 11.30 A.M. and not at 12.00 Noon as alleged by the petitioner complainant. The petitioner complainant moved an application before the Sessions Judge, Bhilwara being Criminal Case No.724/04 under Sub-section (5) of Section 437 Cr.P.C., seeking cancellation of the anticipatory bail granted to Amit Derashri on the ground that anticipatory was sought by the accused on the plea of alibi which was founded on forged documents. Learned Sessions Judge held the inquiry, recorded the statements of witnesses including the complainant, Om Prakash Compounder, perused the original register of the hospital Ex.-1 and after thorough examination of the evidence came to the conclusion that the petitioner has failed to make out a case that accused Amit Derashri sought the anticipatory bail on the basis of a forged document. On the contrary, the document filed by him

i.e. record of hospital was found to be genuine and accordingly refused to cancel the anticipatory bail granted in favour of accused Amit Derashri. The same material is available on police record also. On the basis of the material collected during investigation, the police filed the negative final report. On notice, the petitioner complainant requested the trial court for issuing direction to the police for further investigation in the matter which came to be declined by the trial court and that order came to be challenged by the petitioner before the revisional court. Both the courts below have concurrently found that there is no ground on which the matter can be sent back to the police for further investigation. On the contrary, from the material placed before it, the trial court was satisfied that the final report filed by the police cannot be found faulted. The decision relied on by counsel for the petitioner in Narendra Kumar Agarwal's case (supra) is of no help to the petitioner as it turns on its own facts and has no application to the facts of the present case.

In the circumstances, therefore, it cannot be said that the orders impugned would result in serious miscarriage of justice or abuse of process of the Court.

The petition is accordingly dismissed. Stay petition also stands dismissed.

(H.R.PANWAR),J.

rp